

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

WILLIAM KEITH WININGEAR, et al,

Plaintiffs,

v.

Civil Action No. 2:12cv560

CITY OF NORFOLK, VIRGINIA,

Defendant.

DECLARATION OF WILLIAM BENNETT

I, William Bennett, declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that the following is true and correct:

1. My name is William Bennett. I maintain my principal place of business at 1108 East Main Street, Suite 802, Richmond, Virginia 23219. I am a citizen and resident of the United States and the Commonwealth of Virginia. I have personal knowledge of the information contained in this Declaration, and I give this Declaration of my own free will.

2. I have been retained as an expert in the captioned matter. My areas of expertise include software and computer system design and functionality. My work history and areas of expertise include substantial experience analyzing, assessing and writing code for human resources and payroll management systems. My curriculum vitae is attached as **Exhibit A**, hereto.

3. I have developed a software program customized specifically for the evaluation of Virginia state gap time owed by the City of Norfolk to the Plaintiffs identified in that complaint filed on October 11, 2012 styled *William Keith Winingear, et al v. City of Norfolk, Virginia*, Case No. 2:12-cv-00560-HCM-DEM (“Complaint”) pursuant to Va. Code §9.1-700, et seq. (“Virginia

EXHIBIT 4

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gap time statute"). More specifically, I have developed a program that would evaluate, assess and calculate "gap time" overtime pay that is owed to the Plaintiff officers in that action.

4. I have developed the program to readily and easily calculate using the applicable variables including regular hourly rate, all straight and other time paid and hours worked during the various work periods over the three year period immediately preceding the filing of the Complaint. I have developed similar programs in other actions related to the Virginia gap time statute

5. I have been authorized by Plaintiffs' counsel and counsel for the Defendants to communicate freely with information technology experts within the City of Norfolk human resources department. I have already downloaded significant data for three officers and the program appears to perform very well. I expect to have the data for all Plaintiffs electronically downloaded/transferred into the program I have developed in the near future.

6. Once this is done, the Virginia "gap time" pay owed to each officer will be immediately and readily ascertainable.

7. The calculations and evaluations of the time owed to the police officers for Virginia gap time are essentially identical, differing only in their defined work periods (e.g., seven, fourteen, fifteen, twenty and twenty-eight days), their regular hourly rate of pay, their regular recurring work schedules (e.g., generally seven days/40 hours, fourteen days/80 hours, fifteen days/86.67 hours, twenty days/114 hours and twenty-eight days/160 hours) and the actual hours paid and worked. The Plaintiffs all appear to have identical factual situations for purposes of Virginia gap time analysis with the only variables being those listed in the previous sentence. In other words, there are no individualized factual questions other than the variables of hours worked, regular hourly rate and regular recurring work schedules and hours actually paid. These

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are variables for which the program developed by me, discussed above, will immediately, easily and readily provide full and complete resolution. In fact, once this data is downloaded, the amounts owed to each officer under the Virginia gap time statute will be readily and easily calculated. In this respect the officers' claims could not be more typical or common as among themselves.

8. I have spent significant time discussing the available data with Norfolk's information technology experts, Plaintiffs' counsel and have examined sample data provided for me by the Norfolk human resources department and Plaintiffs' counsel. It is clear to me that all officers have virtually identical claims under the Virginia gap time statute, the only differences being the variables discussed above. I currently express no opinion as to "off the clock" claims and time owed under the FLSA.

9. The predominant and, indeed, entire issue with respect to the Virginia gap time statute can be solved for each officer based on the variables identified above using the program I have developed or using a comparable program/function developed or acquired by the City if it chooses to do so.

10. The Plaintiffs have devoted substantial resources to the development of this program and have paid, and will pay, substantial sums to my firm to develop and implement same.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date:

9/30/13

W.J. Bennett

William Bennett

William T. Bennett

Cirriculum Vitae

SUMMARY

By combining an in depth knowledge of business principles, databases and application development expertise, Bill leads teams that produce business systems that empower organizations. He has over 22 years' experience in modeling complex situations and building analytic tools to solve problems.

EXPERIENCE

IdeaWeavers, Richmond, VA 1999 – present

President

Responsibilities:

- President and founder of IdeaWeavers, Inc., a software application development and consulting company. www.ideaweavers.com
- Lead analyst on the overtime GAP compensation cases for the Richmond City and Henrico County Police.
- Primary responsibilities including data analysis, software development, sales, marketing and executive management of professional staff.
- Lead team in designing and developing Common Thread, a web-based enterprise application development platform targeted at operations management and business reporting solutions. Clients have reported doubling productivity because of using Common Thread. Clients include the State Supreme Court of Virginia, Owens & Minor, Newell Rubbermaid, CapitalOne, Merrill Lynch and Cox Interactive Media.

Renaissance Worldwide, Inc., Boston, MA 1998 – 1999

Consultant

Responsibilities:

- Designed knowledge management system to support the technical salespeople for large Telecom Company. Focused on the building of customer, competitor and solutions information.
- Business analysis and system development recommendation for a software company. Interviewed all divisions of the company to determine the focus for implementing Vantive Sales, Support and Quality modules.
- Designed and developed a customer management system for a mutual fund distribution company. Developed a highly customized Vantive Sales application. Also built data interface programs in Visual Basic to bring financial transactions and asset positions into the system.

Forte Software, Oakland, CA 1997

Summer Intern Business Analyst

Responsibilities:

- Worked with the Director of Information Technology on the strategic plan for Forte's information resources concentrating on inter-department workflow and customer information. Developed foundation for the customer oriented data warehouse and worked with Forte developer on prototype.
- Analyzed business processes and technology deployed within the Accounting, Consulting, Marketing Purchasing, Sales and Shipping Departments focusing on information flow between departments and development of customer relationship information.

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Integrated Technologies, Columbia, MD 1995 – 1996

Client Server Expert

Responsibilities:

- Contracted for entire time as the in house Client-Server Expert for the Commodity Futures Trading Commission (CFTC).
- Primary responsibility to transfer knowledge of Client-Server technology to internal staff and other contractors.
- Designed, developed, and deployed the Repcase system that coordinated all information and workflow on the reparation cases with the CFTC.
- Lead Development team of four-person CFTC technology staff in the building of the Repcase system.
- Designed strategy, evaluated/selected tools and hardware and constructed initial development of essential code (key NT to IBM mainframe interfaces) for the downsizing of the mainframe used for commodities market surveillance.

InterAmerica Technologies, McLean, VA 1994 – 1995

Team Lead/Senior Software Engineer

Responsibilities:

- Development Team Leader for Capitol Correspond product. This was the first correspondence product built by InterAmerica and has become the foundation of the company's offerings.
- Over half of the Senators and almost a quarter of the House Representatives purchased Capitol Correspond for constituent management, workflow, scheduling and analysis.
- Designed architecture, database and software development standards for the five- person development team.

Systems Research and Applications, Arlington, VA 1991 – 1994

Software Engineer/Business Manager/Economic Analyst

Responsibilities:

- Analysis and recommendation for changes to Air Force Firefighter compensation based on analysis of 10 years of compensation data.
- Created project management, reporting and billing system that resulted in savings of over \$300,000 in four years.
- Developed several business tracking and decision support systems while reporting on the operations and financial standing of an \$8M Network Consulting Group.

EDUCATION

Master of Business Administration, 1996 - 1998

The Amos Tuck School at Dartmouth College

Bachelor of Arts with Distinction in Economics, Chemistry Minor, 1987-1991

Phi Beta Kappa, Echols Scholar

University of Virginia, Charlottesville, VA

TECHNOLOGIES

Java, AJAX, CSS, DHTML, JSP, JavaScript, Tomcat, PowerBuilder, JCL, ColdFusion, Windows NT/XP, Linux, SQLServer, Oracle, mySQL, MS Project, ERWin, RoboHelp